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| 10/816,057 | 04/01/2004 | George D. Wolf | GDW-P-02-001 | 9634 |
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| PATENTS+TMS, P.C. 2849 W. ARMITAGE AVE. CHICAGO, IL 60647 | | | EXAMINER MULLER, BRYAN R | |
| | | | ART UNIT 3723 | PAPER NUMBER |

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/816,057 | WOLF, GEORGE D. |
| | Examiner | Art Unit |
| | Bryan R. Muller | 3723 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 April 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/14/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Lines 5-7 in the replacement paragraph for page 9 of the specification discloses that "there is a width 15 between track 6g abutting the wall 21 and the track 6g abutting the wall 25". However, there is only one track 6g, therefore it is impossible for there to be a space between itself and wall 21 does not abut track 6g or 6g'. It is assumed that the applicant intends to disclose that "there is a width 15 between track 6g and the track 6g', both of which abut the wall 25".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 7, 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Lines 8-10 of amended claim 1 disclose that the maximum height is at a first end and a minimum height is at a second end. However, there is no disclosure in the

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specification supporting this claimed limitation and the drawings actually show that the maximum height is spaced inwardly from the first end and the minimum height is spaced inwardly from the second end and there is actually a larger height between the minimum height and the second end. For the sake of the current office action, the examiner will assume that the applicant intended to claim that the maximum and minimum heights are proximate the first and second ends, relatively.

5. Lines 7-9 of amended claim 7 disclose that the first wall is continuously parallel to the second wall. However, lines 10 and 11 disclose that there are indents within the walls, hence the indents are part of the walls, and the indents are not parallel to one another in any of the drawings, nor is this claimed limitation supported in the specification. For the sake of the current office action, the examiner will assume that the applicant intended to claim that "with the exception of the indents, the first wall is continuously parallel to the second wall".

6. Lines 14-17 of amended claim 14 disclose that the height, defined between the top end and the bottom end of the tool, increases along the length of the tool from a minimum height at the first end to a maximum height at the second end. However, there is no disclosure in the specification supporting this claimed limitation and the drawings show that the height fluctuates and that the maximum height is spaced inwardly from the second end and the minimum height is spaced inwardly from the first end and that there is actually a larger height between the minimum height and the first end.

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7. Lines 20-23 of amended claim 16 disclose that the distance between the second surfaces increases as the second surfaces move toward the first end and wherein the distance is at a maximum length at the second end. However, there is no support in the specification or the drawings for this claimed. Further, this claimed limitation is not possible. If the distance increases as the second surfaces move toward the first end, then the maximum length of this distance could not possibly be at the second end, which is furthest away from the first end. For the sake of the current office action, it will be assumed by the examiner that the applicant intended to claim that "the distance between the second surfaces increases as the second surfaces move toward the first end and wherein the distance is at a maximum length at the *first* end" or that "the distance between the second surfaces decreases as the second surfaces move toward the first end and wherein the distance is at a maximum length at the second end".

8. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As discussed supra, lines 20-23 of amended claim 16 disclose that the distance between the second surfaces increases as the second surfaces move toward the first end and wherein the distance is at a maximum length at the second end. However, this is not possible. For the sake of the current office action, it will be assumed that the applicant intended to disclose one of the variations, as discussed supra.

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9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The last line of claim 12 (line 7) discloses that "the second width is at least twice greater than the second width". It is not possible for a width to be greater than itself. It is assumed by the examiner, for the sake of the current office action that the applicant intended to claim that the "the third width is at least twice greater than the second width".

11. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As discussed supra, it is unclear how the distance is at a maximum length at the second end when the distance increases as the second surfaces move towards the first end.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 7, 8, 11, 13-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mathys (CH 668380 A5).
14. In reference to claim 7, Mathys discloses a fastening device comprising a body having a length defined between a first end (top of page; Fig. 1) and a second end (bottom of page; Fig. 1) wherein the body has an outside perimeter wherein the outside perimeter defines an exterior surface wherein the exterior surface forms a height between a top side and a bottom side wherein the height undulates between the first end and the second end (the height forms one complete wave, hence undulating, from a large height at the first end, down to a small height in the middle and back to a large height on the second end), an interior area (lower 3 in Fig. 1) within the body having a first wall and a second wall wherein the first wall is continuously parallel to the second wall (with the exception of the indents) and indents within the first wall and the second wall wherein the indents divide the first wall and the second wall into spaced sections and wherein a first width is defined between the first wall and the second wall wherein the first width increases to form a greater area between the spaced sections as the distance from the first end increases.
15. In reference to claim 8, Mathys further discloses that the sections increase in length from the first end to the second end.
16. In reference to claim 11, Mathys further discloses an apex at the first end of the fastening device formed by a convergence of the first wall and the second wall.

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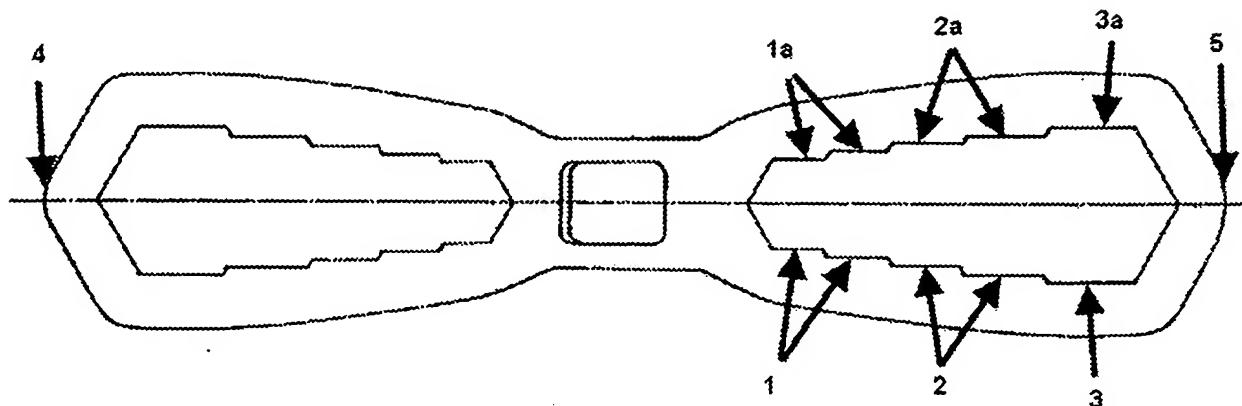
17. In reference to claim 13, Mathys further discloses that one of the indents in the first wall is aligned with one of the indents in the second wall.

18. In reference to claim 14, Mathys inherently discloses a method for securing a fastener, the method comprising the steps of providing a tool having a body (the tool of Mathys comprises two bodies (1), each with first and second ends that are connected by an intermediate connecting part (2) that is connected to the first end of both bodies) having a length defined between a first end and a second end wherein the body has an interior area defined by parallel walls wherein the walls have engaging sections wherein the engaging sections are integrally formed with the body wherein the engaging sections are co-extensive and further wherein each of the engaging sections has a different width separating the engaging sections in the interior area wherein the width of the engaging sections increases along the length from a minimum width at the first end to a maximum width at the second end and further wherein the body has a top end and a bottom end wherein the top end and the bottom end extend from the engaging sections to form an exterior surface wherein the tool has a height defined between the top end and the bottom end wherein the height increases along the length of the tool from a minimum height at the first end to a maximum height at the second end and selecting first engaging sections to contact the fastener wherein the walls of the tool contact the fastener.

19. In reference to claim 15, Mathys further inherently discloses the step of moving the tool in a direction to secure the fastener.

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20. In reference to claim 16, Mathys discloses a tool comprising a body having a length defined between a first end (5, below) and a second end (4, below) wherein the body has an outside perimeter and an inside perimeter wherein the inside perimeter defines an open area wherein the outside perimeter defines an exterior surface wherein the exterior surface surrounds the inside perimeter wherein the exterior surface undulates between the first end and the second end (the height forms one complete wave, hence undulating, from a large height at the first end, down to a small height in the middle and back to a large height on the second end), first surfaces (1 and 1a, below) formed on the inside perimeter wherein the first surfaces are parallel and opposed, a first section and a second section formed on each of the first surfaces wherein a first distance exists between opposed first sections and a second distance exists between opposed second sections wherein the first distance is not equal to the second distance and second surfaces (2 and 2a, below) within the inside perimeter wherein the second surfaces are parallel and opposed and wherein the second surfaces are separated by a distance greater than the first distance and the second distance and further wherein one of the first surfaces is co-extensive with one of the second surfaces wherein the distance between the second surfaces increases as the second surfaces move toward the first end wherein the distance is at a maximum length at the *first* end.



21. In reference to claim 17, Mathys further discloses that a *third* and *fourth* section along each of the second surfaces wherein a *third* distance exists between opposed *third* sections and a *fourth* distance exists between opposed *fourth* sections wherein the *third* distance is not equal to the *fourth* distance.

22. In reference to claim 18, Mathys further discloses third surfaces (3 and 3a, above) co-extensive with the second surfaces wherein the third surfaces are opposed and parallel.

23. In reference to claim 20, Mathys further discloses that the second surfaces are longer than the first surfaces.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

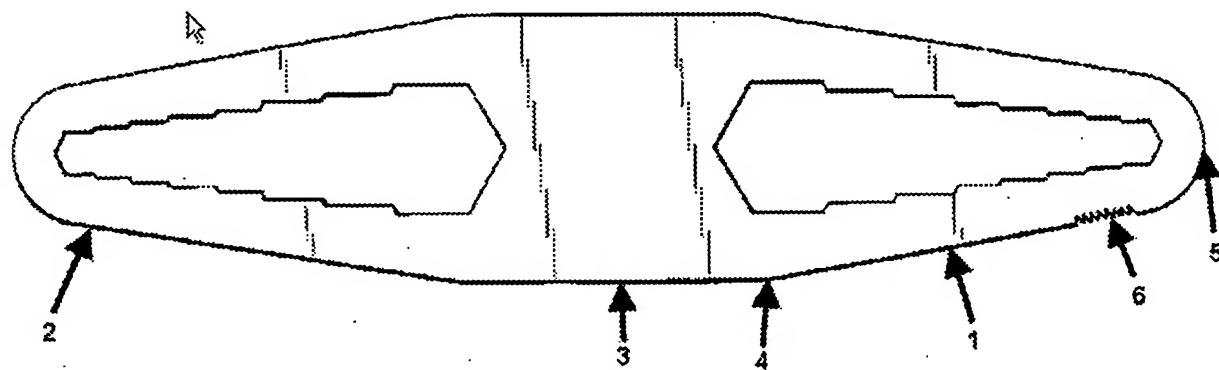
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25. Claims 1-7, 9, 10 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Keddie (Des. 393,578) in view of Mobile (5,425,292).

26. In reference to claim 1, Keddie discloses a tool comprising a body (the tool comprises two bodies, 1 and 2, that are connected to one another by a connecting piece 3) having a length defined between a first end (4) and a second end (3) wherein the body is integrally formed wherein the body has an outside perimeter and an inside perimeter wherein the inside perimeter defines an open area and further wherein the body has a height defined between a top side and a bottom side wherein the top side and the bottom side form the outside perimeter of the body wherein the height has a maximum height at the first end and further wherein the height decreases to a minimum height at the second end, first surfaces formed on the inside perimeter of the open area wherein the first surfaces are parallel and separated by a first width in the open area and second surfaces formed on the inside perimeter of the open area wherein the second surfaces are parallel and separated by a second width wherein the second width is greater than the first width and one of the first surfaces is co-extensive with one of the second surfaces. Keddie, however, fails to disclose that the height undulates between the first end and the second end. Mobile discloses a similar hand tool and discloses edge surfaces (32, 34), each with a plurality of finger recesses (32a, 34a) and convex curvature surfaces (32b, 34b) and teaches that the edges provide convenient finger gripping edges on both ends of the wrench (col. 2, line 66-col. 3, line 7), which inherently provide better grip on the wrench allowing the operator to apply higher torque to a fastener. Therefore, it would have been obvious to one of ordinary skill in the art at

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the time the invention was made to provide a plurality of finger recesses and convex curvature surfaces to at least one of the top side and bottom side of each of the bodies in the Keddie wrench to provide convenient finger gripping edges as taught by Mobile. Thus, providing that the height of the body on the modified Keddie invention would have a maximum height at the first end, a minimum height at the second end and wherein the height undulates between the first and second end.



27. In reference to claim 2, the obvious combination of Keddie and Mobile would provide grooves (finger recesses) on the body that extend toward the inside perimeter.

28. In reference to claim 3, Keddie further provides ridges (6) on the outside perimeter of the tool wherein the ridges are formed by depressions in the body of the tool along the outside perimeter.

29. In reference to claim 4, Keddie further discloses an indent in the inside perimeter separating each of the surfaces.

30. In reference to claim 5, Keddie further discloses an apex formed along the inside perimeter.

31. In reference to claim 6, Keddie further discloses third surfaces around the open area wherein the third surfaces are parallel and separated by a third width wherein the

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third width is greater than the second width and one of the third surfaces is co-extensive with one of the second surfaces.

32. In reference to claim 7, the obvious combination of Keddie and Mobile discloses a fastening device comprising a body (the fastening device comprises two bodies, 1 and 2, that are connected to one another by a connecting piece 3) having a length defined between a first end (5) and a second end (4) wherein the body has an outside perimeter wherein the outside perimeter defines an exterior surface wherein the exterior surface forms a height between a top side and a bottom side wherein the height undulates between the first end and the second end (as discussed supra), an interior area within the body having a first wall and a second wall wherein the first wall is continuously parallel to the second wall (with the exception of the indents) and indents within the first wall and the second wall wherein the indents divide the first wall and the second wall into spaced sections and wherein a first width is defined between the first wall and the second wall wherein the first width increases to form a greater area between the spaced sections as the distance from the first end increases.

33. In reference to claim 9, Keddie further provides ridges (6) on the outside perimeter of the fastening device wherein the ridges are formed by depressions in the body of the fastening device along the outside perimeter.

34. In reference to claim 10, the obvious combination of Keddie and Mobile would provide grooves (finger recesses) on the body that extend toward the inside perimeter.

35. In reference to claim 12, Keddie further discloses first sections in the first wall and the second wall wherein the first sections are separated by a second width and

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second sections in the first and the second wall wherein the second sections are separated by a third width wherein the *third* width is at least twice greater than the second width (as seen in Fig. 1).

36. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathys (CH 668380 A5) as applied to claim 16 and further in view of Mobile (5,425,292) and Gramera et al (5,048,379).

37. Mathys discloses the tool of claim 16, as discussed supra, but fails to disclose that the distance between the first sections is based on a first measurement system and the distance between the second sections is based on a second measurement system wherein the first measurement system is not the same as the second measurement system. Mobile discloses a similar wrench that has several individual openings, each of which is sized to fit a particular sized fastener and Mobile discloses that the openings enable use of the wrench with both American and metric fasteners (col. 1, lines 54-68). Gramera also discloses wrenches that enable use with both American and metric sizes and discloses a set of standard American and metric sizes that would commonly be provided in a wrench or wrench set and further discloses that each American size should be paired with the closest metric size so that, when an operator is unsure if a fastener is American or metric, they can find an approximate size and the tool will provide the correct size in American units or Metric units, depending on the type of units the particular fastener is sized to. Providing the wrench of Mathys with openings for American and Metric sized fasteners, as taught by Mobile would increase the number of

fastener sizes that the Mathys wrench may engage and provide both English standard and metric sizes, thus, minimizing the number of tools needed, which will reduce clutter, minimize costs to purchase the tools and make projects requiring different sized wrenches easier and faster. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to space the surfaces such that they may engage American and Metric sizes, as taught by Mobile, and it is further obvious in view of Gramera, that each section of American units will be immediately followed by the closest size of the Metric units, so that it is easier to find the correct size when the operator is unsure of the units of the fastener. Thus, the distance between the first section would be based on a first measurement system (American units) and the distance between the second section is based on a second measurement system (metric units) wherein the first measurement system is not the same as the second measurement system.

Response to Arguments

38. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

39. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRM BRM
2/23/2006



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